	Application No.	Applicant(s)
Notice of Allowability	09/750,385	WIJAYA ET AL.
	Examiner	Art Unit	
	Marissa Thein	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *September 8, 2006*.

2. ☒ The allowed claim(s) is/are *1-10,12-32,34,35 and 37-39*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some* ˙c) ☐ None of the:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

    * Certified copies not received: _____ .

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

    (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

        1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____ .

    (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____ .

    Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)

3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____

4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☒ Interview Summary (PTO-413), Paper No./Mail Date *11-21-06* .

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____ .

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Peter Tong on November 21, 2006.

The application has been amended as follows:

In The Claims

Claims 1, 12, 15, 23, 27, 29, and 34 are amended.

In claim 1, page 2, and lines 23-25:

Lines 23-25 have been changed to read as follows:

--wherein a quantity of the substitute item to be substituted for a quantity of the identified ordered item is not one for one, and is dependent on applying the ratio rule to the quantity of the identified ordered item, --

In claim 12, page 4, lines 1-4:

Lines 1-4 have been changed to read as follows:

--The method of claim 1 further comprising comparing the identified ordered item with at least another identified ordered item in another customer order related to the oversold item based upon the quantity associated with each of the identified ordered items.--

In claim 15, page 5, lines 25-27:

Lines 25-27 have been changed to read as follows:

--wherein a quantity of the substitute item to be substituted for a quantity of the identified ordered item is not one for one, and is dependent on applying the ratio rule to the quantity of the identified ordered item, --

In claim 23, page 7, lines 28-30:

Lines 28-30 have been changed to read as follows:

--wherein a quantity of the substitute item to be substituted for a quantity of the identified ordered item is not one for one, and is dependent on applying the ratio rule to the quantity of the identified ordered item, --

In claim 23, page 8, lines 33-34:

Lines 33-34 have been changed to read as follows:

--wherein the at least one interface is further configured or designed to show the image of at least one item to support the customer in placing the current order.--

In claim 27, page 8, lines 1-4:

Lines 1-4 have been changed to read as follows:

--The system of claim 23 wherein the system is configured or designed to compare the identified ordered item with at least another identified ordered item in another customer order related to the oversold item based upon the quantity associated with each of the identified ordered items.--

In claim 29, page 9, lines 28-30:

Lines 28-30 have been changed to read as follows:

--wherein a quantity of the substitute item to be substituted for a quantity

of the identified ordered item is not one for one, and is dependent on applying the

ratio rule to the quantity of the identified ordered item, --

In claim 34, page 11, lines 22-24:

Lines 22-24 have been changed to read as follows:

--wherein a quantity of the substitute item to be substituted for a quantity

of the identified ordered item is not one for one, and is dependent on applying the

ratio rule to the quantity of the identified ordered item, --.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Claim 1

The prior art of record neither anticipates nor fairly and reasonably teach a

computer-implemented method for effecting, via a computer network, substitution

of at least one ordered item of at least one customer order for on-line shopping,

the method comprising, *inter alia*: upon identifying the ordered item relating to the

oversold item, automatically substituting, base upon information regarding at

least one substitution preference stored in a storage medium, at least one

substitute item for the identified ordered item in the received customer order, the

at least one substitution preference being provided by the customer, wherein the

substituting depends on a ratio rule for substituting the substitute item for the

identified ordered item, wherein a quantity of the substitute item to be substituted

for a quantity of the identified ordered item is not one for one, and is dependent

on applying the ratio rule to the quantity of the identified order item (see claim 1).

The most closely applicable prior art of record is U.S. Patent Application

Publication No. 2004/ 0236635 to Publicover. Publicover is silent to <u>upon</u>

<u>identifying the ordered item relating to the oversold item, automatically</u>

<u>substituting, based upon information regarding at least one substitution</u>

<u>preference stored in a storage medium, at least one substitute item for the</u>

<u>identified ordered item in the received customer order, the at least one</u>

<u>substitution preference being provided by the customer, wherein the substituting</u>

<u>depends on a ratio rule for substituting the substitute item for the identified</u>

<u>ordered item, wherein a quantity of the substitute item to be substituted for a</u>

<u>quantity of the identified ordered item is not one for one, and is dependent on</u>

<u>applying the ratio rule to the quantity of the identified order item</u>. Publicover

discloses when a customer placing an order online, a Digital Order Packet (DOP)

is generated and cannot be changed except as predetermined by or allowed by

the customer or agreed upon protocol between Customer and Delivery Network

(paragraph 75). Publicover discloses an example where a product X is not

available by Y time a substitution of an out of stock product may be

predetermined or system may be pre-programmed to digitally contact the

customer with several choices based on a customer profile and wait for a set

time for response (paragraph 75). Furthermore, Publicover discloses the tailored

DOP can be modified and specified by the individual customer (paragraph 76).

The customer may input information detailing their preference on product

substitution in case of unavailability (paragraph 76). Publicover fails to anticipate

or fairly and reasonably teach the specificity required in meeting the limitations of

the claims regarding upon identifying the ordered item relating to the oversold

item, automatically substituting, base upon information regarding at least one

substitution preference stored in a storage medium, at least one substitute item

for the identified ordered item in the received customer order, the at least one

substitution preference being provided by the customer, wherein the substituting

depends on a ratio rule for substituting the substitute item for the identified

ordered item, wherein a quantity of the substitute item to be substituted for a

quantity of the identified ordered item is not one for one, and is dependent on

applying the ratio rule to the quantity of the identified order item.

Peachy-Kountz et al. neither anticipates or fairly and reasonable teaches a

computer-implemented method comprising upon identifying the ordered item

relating to the oversold item, automatically substituting, based upon information

regarding at least one substitution preference stored in a storage medium, at

least one substitute item for the identified ordered item in the received customer

order, the at least one substitution preference being provided by the customer,

wherein the substituting depends on a ratio rule for substituting the substitute

item for the identified ordered item, wherein a quantity of the substitute item to be

substituted for a quantity of the identified ordered item is not one for one, and is

dependent on applying the ratio rule to the quantity of the identified order item.

Peachy-Kountz's teaches an ATP (available to promise) engine tool and system

which receives orders from multiple demand sources or ordering systems

(abstract). The tool can maintain a synergistic relationship between multiple

ordering systems (abstract). Peachy-Kountz teaches automatically making

substitutions based on business decisions, rules, and in user-defined information

(col. 10, lines 4-7). The business rules, which include customer requirements

and enterprise, order commitment policies, determine solutions without manual

intervention (col. 12, lines 26-32).

Cameron et al. neither anticipates or fairly and reasonable teaches a

computer-implemented method comprising <u>upon identifying the ordered item</u>

<u>relating to the oversold item, automatically substituting, based upon information</u>

<u>regarding at least one substitution preference stored in a storage medium, at</u>

<u>least one substitute item for the identified ordered item in the received customer</u>

<u>order, the at least one substitution preference being provided by the customer,</u>

<u>wherein the substituting depends on a ratio rule for substituting the substitute</u>

<u>item for the identified ordered item, wherein a quantity of the substitute item to be</u>

<u>substituted for a quantity of the identified ordered item is not one for one, and is</u>

<u>dependent on applying the ratio rule to the quantity of the identified order item</u>.

Cameron et al. teaches a computerized order entry system for the placement of

an order by a user via a terminal having a display (abstract). Cameron et al.

teaches the offering of an image display means for displaying an electronic

image depicting a representation of the item corresponding to the combination

displayed by the offer combination data capture means (col. 89, lines 60-64).

Claim 15 recites a computer program product for effecting, via a computer

network, substitution of at least one ordered item of at least one customer order

for on-line shopping, the computer program product comprising, *inter alia*,

<u>computer code for automatically substituting, based upon information regarding</u>

at least one substitution preference stored in a storage medium, at least one substitute item for the identified ordered item in the received customer order upon identifying the ordered item relating to the oversold item, the at least one substitution preference being provided by the customer, wherein the substituting depends on a ratio rule for substituting the substitute item for the identified ordered item, wherein a quantity of the substitute item to be substituted for a quantity of the identified ordered item is not one for one, and is dependent on applying the ratio rule to the quantity of the identified order item. This computer program product is allowable over the prior art of record for reasons consistent with those identified above with respect to claim 1.

Claim 23 recite a system claim, comprising, *inter alia,* said system being further configured or designed to automatically substituting, based upon information regarding at least one substitution preference stored in the memory, at least one substitute item for the identified ordered item in the received customer order upon identifying the ordered item relating to the oversold item, the at least one substitution preference being provided by the customer, wherein said substituting depends on a ratio rule for substituting the first preferred substitute item for the identified item, wherein a quantity of the first preferred substitute item to be substituted for a quantity of the identified item is not one for one, and is dependent on applying the ratio rule to the quantity of the identified item. The system claim is allowable over the prior art of record for reasons consistent with those identified above with respect to claim 1.

Claim 29 recite a computer-implemented method claim, comprising, *inter alia,* upon determining that at least one item has been oversold, automatically modifying at least a portion of the received customer orders by substituting alternate merchandise for ordered merchandise which has been identified as being oversold, where the substitution of the merchandise items is implemented using information regarding at least one substitution preference stored in a storage medium, the at least one substitution preference being provided by the customer and fulfilling the modified customer orders, wherein modifying depends on a ratio rule for substituting the alternate merchandise for the ordered merchandise that has been identified as being oversold, wherein a quantity of the alternate merchandise to be substituted for a quantity of the ordered merchandise that has been identified as bind oversold is not one for one, and is dependent on applying the ratio rule to the quantity of that ordered merchandise. The computer-implemented method is allowable over the prior art of record for reasons consistent with those identified above with respect to claim 1.

Claim 34 recite a computer-implemented method claim, comprising, *inter alia,* upon identifying the ordered item relating to the oversold item, automatically substituting, based upon information regarding at least one substitution preference stored in a storage medium, at least one substitute item for the identified ordered item in the received customer order, the at least one substitution preference being provided by the customer, wherein said substituting includes: accessing said at least one substitution preference to determine a first preferred substitution item for the identified item; and determining whether a

<u>sufficient quantity of the first preferred substitution item is available to be</u>

<u>substituted for the identified item, wherein the substituting depends on a ratio rule</u>

<u>for substituting the substitute item for the identified ordered item, wherein a</u>

<u>quantity of the substitute item to be substituted for a quantity of the identified</u>

<u>ordered item is not one for one, and is dependent on applying the ratio rule to the</u>

<u>quantity of the identified order item</u>. The computer-implemented method is

allowable over the prior art of record for reasons consistent with those identified

above with respect to claim 1.

Claims 1, 15, 23 and 29 have a tangible result, which is "at least one

substitute item for the identified ordered item in the received customer order".

Claim 34 has a tangible result which is "automatically modifying at least a

portion of the received customer orders by substituting alternate merchandise for

ordered merchandise".

Any comments considered necessary by applicant must be submitted no

later than the payment of the issue fee and, to avoid processing delays, should

preferably accompany the issue fee. Such submissions should be clearly labeled

"Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Marissa Thein whose telephone number is

571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Alex Kalinowski can be reached on 571-272-6771. The

fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mtot
November 26, 2006

MICHAEL CUFF
PRIMARY EXAMINER